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June 12, 2009

The Honorable Chairman and Members  
of the Public Utilities Commission  
State of Hawaii  
Kekuanaoa Building  
465 South King Street, First Floor  
Honolulu, Hawaii 96813

PUBLIC UTILITIES  
COMMISSION

2009 JUN 12 P 2:37

FILED

Re: Docket No. 2008-0273 - Instituting a Proceeding to Investigate the  
Implementation Of Feed-in Tariffs.

Dear Commissioners:

Hawaii Holdings, LLC, a Delaware limited liability company, doing business as First Wind Hawaii ("First Wind"), respectfully wishes to inform the Public Utilities Commission (the "Commission") that it will not be submitting an opening brief in this proceeding, which is now due on June 12, 2009, and to explain the basis for its position. Preliminarily, First Wind notes that the Commission had originally granted First Wind intervenor status in this proceeding and subsequently amended First Wind's status from an intervenor to a participant by its Order, filed April 27, 2009.<sup>1</sup> In that Order, the Commission also stated that it would allow the same amount of participation granted to the County of Hawaii and the City and County of Honolulu, each of whose status was amended in that Order from an intervenor to a participant. The degree of such participation included, as stated in the Order, that the County of Hawaii and the City and County of Honolulu, "may file 'any permitted statement in accordance with the Stipulated Regulatory Schedule approved by the Commission in this proceeding." *Id.*, at 3.

On this basis, First Wind initially considered whether it could submit an opening brief addressing certain issues identified by the Commission in this proceeding in a manner that would contribute to the Commission's consideration of those issues. From First Wind's perspective, the issues in this proceeding, as elaborated and refined by the Commission's consultant and through

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<sup>1</sup> See, Order Granting the County of Hawaii's Motion for Approval to Amend its Status as an Intervenor to a Participant, Filed on April 8, 2009; Granting the City and County of Honolulu's Motion for Approval to Amend its Status as an Intervenor to a Participant, Filed on April 18, 2009; Amending Hawaii Holdings, LLC, Doing Business as First Wind Hawaii and Sempra Generation's Status as Intervenor to Participants; and Amending the Schedule in this Proceeding, filed on April 27, 2009.

the Panel Hearing on April 13-17, 2009, and by the Commission's Order Establishing Hearing Procedures, filed on April 1, 2009, encompassed substantially design, technological, operational, pricing and legal considerations, including technologies that could be included in a feed-in tariff ("FIT") system.

However, it appeared to First Wind that how those issues were being approached, and how the resulting specific questions arising from those issues were being formulated, was very substantially defined by the parameters of the *Joint Proposal on Feed-In Tariffs of the HECO Companies and Consumer Advocate* (the "Joint Proposal"), filed with the Commission on December 23, 2008, by Hawaiian Electric Company, Inc., Maui Electric Company, Limited and Hawaii Electric Light Company, Inc. (collectively, the "HECO Companies") and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (the "Consumer Advocate"). The Joint Proposal incorporated the *HECO Feed-in Tariff Program Plan* (December 23, 2008), prepared by KEMA for the HECO Companies (the "KEMA Report"), which was attached to the Joint Proposal.

The plan set forth in the Joint Proposal limits the size of the projects that will be eligible for the FIT to very small projects. For wind energy projects, only wind energy projects up to and including 100 kilowatts ("kW") would be eligible for the plan's first phase. *See*, Joint Proposal at 9-10; KEMA Report at 15. The Joint Proposal also states that the FIT would be subject to the HECO Companies' interconnection Tariff Rule 14.H." ("Rule 14.H"). *Joint Proposal* at 9, 14; *see, also*, KEMA Report §3.7 at 31-33. Rule 14.H<sup>2</sup> by its terms deals with small scale distributed generating facilities and requires a standard interconnection agreement. The Commission had earlier explained that "Distributed energy involves the use of *small scale* electric generating technologies installed at, or in close proximity to, the end-user's location." Decision and Order No. 22248, issued January 27, 2006, in Docket No. 03-0371, at 1-2.

Once the Joint Proposal was submitted in this proceeding and became the focal point of consideration, First Wind recognized that the Joint Proposal, in its existing form, would by its terms exclude First Wind from the proposed FIT. First Wind develops, owns and operates, through its affiliates, large-scale utility-size wind projects and sells the electric energy generated by its projects to electric utilities for resale to the utility's customers. Its Hawaii projects include the 30 megawatt ("MW") Kaheawa Wind Power Project (Maui), the 21 MW wind energy project adjacent to the Kaheawa Wind Power II Project (Maui), the 30 MW Kahuku Wind Energy Project (Oahu) and the 200 MW Wind Energy Project (Molokai). First Wind does not plan to develop any smaller-sized wind energy projects in Hawaii.

In light of the Joint Proposal, First Wind's experience and knowledge in developing wind energy projects and in working with electric utilities that purchase its electric energy may very likely not be immediately and directly applicable to the FIT as outlined in the Joint Proposal. Both the proposed FIT as well as how it is to be implemented, including the use of Rule 14H, simply exclude First Wind's wind energy projects (i.e., projects greater than 20 MW). In addition, First Wind's projects have fundamentally different design, siting, cost, timeline, financing, energy pricing, performance standards, location and other requirements and characteristics from those of smaller projects of whatever renewable technology involved. The

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<sup>2</sup> Revised Sheet No. 34A-1 *et seq.*, effective April 18, 2008, part of Rule No. 14, reissued June 1, 1988.

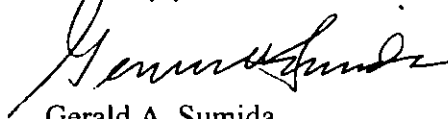
larger, utility-scale renewable energy projects are oftentimes unique developments in Hawaii, each of which requires extensive and project-specific power purchase arrangements and interconnection arrangements between the renewable energy developer and the electric utility concerned. First Wind had previously sought to explain this position in which it found itself in its Statement of Position, filed with the Commission on February 25, 2009, and its Final Statement of Position, filed with the Commission on March 30, 2009, in this proceeding.

When the Commission instituted this proceeding, First Wind anticipated the possibility that the Commission might consider an FIT proposal or proposals that would either have no generating unit size limitations or would have size limitations large enough to accommodate the type of projects that First Wind has developed and is developing (i.e., larger than 20 MW). The Joint Proposal instead encompasses much smaller-sized projects and provides an operational rationale for that approach. This smaller scale, however, excludes projects that First Wind develops.

If the Commission considers an FIT that would accommodate projects of the size and scale of First Wind's, then First Wind would be in a position to seek to provide what information and insights it can from its experience and knowledge in developing large-scale wind energy projects in Hawaii and elsewhere.

First Wind is respectfully cognizant of the Commission's stated objectives in this proceeding and therefore wishes to explain the reasons why First Wind will not be submitting an opening brief in this docket. First Wind appreciates the Commission's understanding and consideration in this matter.

Sincerely yours,



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cc: First Wind  
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